

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 23rd Floor
San Francisco, California 94105**

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING**

**INVESTMENT CONSULTANTS PERFORMING REVIEW OF DERIVATIVE
TRANSACTIONS AND RELATED REVIEWS**

RH05047172

May 19, 2006

SUBJECT OF HEARING:

California Insurance Commissioner John Garamendi proposes the adoption of California Code of Regulations (“CCR”) Title 10, Chapter 5, Subchapter 6.5, Article 1, Section 2690.90 (Purpose); 2690.91 (Definitions); 2690.92 (Disclosure); 2690.93 (Confidentiality); 2690.94 (Conflict of Interest and Disclosure of Affiliation Form).

AUTHORITY AND REFERENCE:

California Insurance Commissioner John Garamendi proposes the adoption of CCR Title 10, Chapter 5, Subchapter 6.5, Article 1, Sections 2690.90 – 2690.94, inclusive, pursuant to the authority vested in him by section 1211(l) of the California Insurance Code. The Commissioner’s decision on the proposed regulations will implement, interpret, and make specific the provisions of Insurance Code section 1211. The Commissioner used the California Government Code, Title 9, Chapter 7 (Conflicts of Interest) and the regulations promulgated by the Fair Political Practices Commission (California Code of Regulations, Title 2, Division 6, beginning with Chapter 1) as guides in developing some of the proposed sections.

HEARING DATE AND LOCATION:

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulations as follows:

Date and Time: **July 7, 2006
10:00 A.M.**

Location: **Department of Insurance – Hearing Room
45 Fremont Street, 22nd Floor
San Francisco, California 94105**

INFORMATIVE DIGEST:

Existing law authorizes a domestic incorporated insurer to engage in derivative transactions, as defined, subject to specified conditions. The Commissioner may adopt rules and issue guidelines

establishing standards and requirements relative to derivative transactions. The Commissioner may deem such actions to be an examination of an insurer subject to the provisions of sections 730 to 738, inclusive.

Existing law directs the Commissioner to issue regulations establishing requirements regarding the disclosure of affiliations and conflicts of interest between an insurer and persons retained by the Commissioner to perform services on behalf of the Commissioner in connection with derivative transactions.

There are no existing regulations regarding the disclosure of affiliations and conflicts of interest with regard to derivative transactions.

These proposed regulations establish requirements regarding the disclosure of affiliations and conflicts of interest between an insurer and persons retained by the Commissioner to perform services on behalf of the Commissioner in connection with derivative transactions.

Policy Statement Overview:

The Commissioner believes that prior to appointing any Investment Consultant to examine domestic insurers' derivative transaction, the Commissioner should be fully informed as to actual or potential conflicts of interest between a particular Investment Consultant and a particular insurer.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS:

The proposed regulations do not impose any mandates on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with section 17500) of Division 4 of the Government code would require reimbursement.

COST OR SAVINGS TO ANY STATE OR LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING:

The Commissioner has determined that the proposed regulations will not result in any costs or savings to any state agency, local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code. There are no nondiscretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the State.

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE:

The Commissioner has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES:

The Commissioner has determined the proposed regulations will not have a cost impact on a representative private person.

The Commissioner has determined the proposed regulations will have a cost impact on businesses in

that it will take time to gather the information required by the regulations and it will take time to complete the Conflict of Interest and Disclosure of Affiliation Form.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA:

The Commissioner is required to assess any impact the proposed regulations may have on the creation or elimination of jobs within the State of California; to assess the creation of new businesses or the elimination of existing businesses within the State of California; to assess the expansion of businesses currently doing business within the State of California.

The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on these issues.

FINDING OF NECESSITY:

The Commissioner finds that it is necessary for the welfare of the people of the State that the proposed regulations apply to businesses.

IMPACT ON HOUSING COSTS:

The matters proposed herein will have no significant effect on housing costs.

ALTERNATIVES:

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has been otherwise identified and brought to the attention of the Commissioner would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

CONTACT PERSON:

All inquiries concerning the proposed regulations and statements, arguments, or contentions should be directed to the following:

Jack K. Hom
Senior Staff Counsel
California Department of Insurance
45 Fremont Street, 23rd Floor
San Francisco, California 94105

(415) 538-4129
(415) 904-5896 (facsimile)
homj@insurance.ca.gov

If the contact person listed above is not available, inquiries may be addressed to the backup contact person:

Tomoko Stock
Investment Officer II
California Department of Insurance

300 S. Spring Street, 14th Floor
Los Angeles, California 90013

(213) 346-6182
stockt@insurance.ca.gov

DEADLINE FOR WRITTEN COMMENTS:

All written comments, whether submitted at the hearing, or by U.S. Postal Service or any other delivery service, or by e-mail or facsimile, must be received by the Commissioner, c/o the contact person at the address listed above, **no later than 5:00 P.M. on July 7, 2006.**

All persons are invited to submit statements, arguments, or contentions relating to the proposed regulations by submitting them in writing to the contact person set forth below **no later than 5:00 P.M. on July 7, 2006.** In addition, such statements, arguments, or contentions may be presented orally at the public hearing.

Questions regarding procedure, the hearing, comments, or the substance of the proposed actions should be addressed to the contact person above.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE:

The Commissioner will accept written comments transmitted by e-mail only if they are sent to the following e-mail address: homi@insurance.ca.gov. The Commissioner will also accept written comments submitted by facsimile only if they are sent to the attention of the contact person at the following **facsimile number: (415) 904-5896**. Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. **Comments sent by e-mail or facsimile are subject to the 5:00 P.M. July 7, 2006 deadline as well.**

ACCESS TO HEARING ROOMS:

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES:

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of Title 10 of the CCR in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address to inquire about the appropriate procedures:

Office of the Public Advisor
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, California 95814
(916) 492 -3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing. Please contact the Office of the Public Advisor

for additional information.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS:

The Commissioner has prepared an Initial Statement of Reasons (“ISOR”) that sets forth the reasons for the proposed regulations. Upon request, the ISOR and the text of the proposed regulations will be made available for inspection and copying. Requests for the ISOR and the text of the proposed regulations should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the ISOR, and any supplemental information, is contained in the **Rulemaking File RH05047172** and is available for inspection and copying by prior appointment at 45 Fremont Street, 23rd Floor, San Francisco, California 94105, between the hours of 9:00 A.M. and 4:30 P.M., Monday through Friday.

Final Statement of Reasons:

After it has been prepared and upon request, the Final Statement of Reasons (“FSOR”) will be made available for inspection and copying. Requests for the FSOR should be directed to the contact person listed above.

AUTOMATIC MAILING:

A copy of the proposed regulations and this Notice (including the Informative Digest, which contains the general substance of the proposed regulations) will be sent to all persons who have previously filed a request for notice of regulatory action with the Insurance Commissioner.

WEBSITE POSTINGS:

Documents concerning this proceeding will be available on the Department of Insurance website. The documents shall include the proposed regulations, the Notice of Hearing and Informative Digest, the Initial Statement of Reasons, and after it has been prepared, the Final Statement of Reasons. To access these documents, go to <http://www.insurance.ca.gov>. Click “QUICK LINKS”; then click “Legal Information”; then click “Proposed Regulations.” Enter the rulemaking file number for these regulations: RH05047172.

MODIFIED LANGUAGE:

If the Commissioner adopts regulations which differ from those which have originally been made available but are sufficiently related to the original proposed regulations, the amended regulations will be made available to the public for at least 15 days prior to the date of adoption of the amended regulations. Interested persons should request a copy of the amended regulations from the contact person listed above.

May 19, 2006